

# House Study Bill 703 - Introduced

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
ENVIRONMENTAL PROTECTION  
BILL BY CHAIRPERSON OLSON)

## A BILL FOR

1 An Act providing for the application of pesticides by  
2 commercial applicators using an aircraft, providing  
3 penalties, and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 206.2, Code 2009, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Aircraft*" means the same as defined  
4 in section 328.1.

5 Sec. 2. Section 206.6, subsection 5, paragraph c, Code  
6 Supplement 2009, is amended to read as follows:

7 c. The secretary shall issue a commercial applicator  
8 license limited to the classifications for which the applicant  
9 is qualified, which shall expire at the end of the calendar  
10 year of issue unless it has been revoked or suspended by the  
11 secretary for cause.

12 d. The secretary may limit the license of the applicant  
13 to the use of certain pesticides, or to certain areas, or  
14 to certain types of equipment if the applicant is only so  
15 qualified. If a license is not issued as applied for, the  
16 secretary shall inform the applicant in writing of the reasons.

17 e. The secretary shall revoke the license of a commercial  
18 applicator who on more than two occasions applies pesticides  
19 using an aircraft in a manner that causes personal injury.

20 Sec. 3. NEW SECTION. 206.14A **Personal injuries from**  
21 **pesticides applied from an aircraft.**

22 The department shall provide a special form for persons  
23 to submit a statement claiming that they were injured by  
24 pesticides applied by a commercial applicator using an  
25 aircraft.

26 1. The special form may be part of the form provided in  
27 section 206.14, so long as the special form complies with the  
28 requirements of this section. The department may also require  
29 that a claimant file a statement under this section in lieu of  
30 section 206.14.

31 a. Except as otherwise provided in this section, the  
32 department may require that the statement include the same  
33 information, and be filed in the same manner and according to  
34 the same procedures required for a statement filed pursuant to  
35 section 206.14.

1     *b.* The department shall make the form available in an  
2 electronic format, including via the internet. The department  
3 shall provide for authentication of statements filed with the  
4 department, including electronic signatures as provided in  
5 chapter 554D. The statement must be filed with the department  
6 within sixty days after the date that injury is claimed to have  
7 occurred. The statement may refer to evidence substantiating  
8 the claim including information identifying the commercial  
9 applicator or aircraft, medical documents indicating injuries  
10 consistent with pesticide exposure, and media images or sounds  
11 that record the exposure or the consequences of the exposure.

12     2. Upon receipt of a statement, the department shall notify  
13 the commercial applicator. If warranted, the department shall  
14 conduct an investigation to determine if the injuries were  
15 caused by the application of a pesticide in violation of this  
16 chapter. The department shall provide the results of the  
17 investigation to the claimant and the commercial applicator.  
18 The department may provide the results to any person entitled  
19 to receive such results if the claim was also filed under  
20 section 206.14.

21     3. A person's failure to file a report shall not affect any  
22 of the following:

23     *a.* A legal action to obtain damages or injunctive relief.

24     *b.* Any limitations of actions provided in chapter 614.

25     *c.* An administrative, civil, or criminal action initiated  
26 by the state.

27     4. The filing of a statement or the failure to file a  
28 statement is not a violation of this chapter.

29     5. The department may postpone a contested case proceeding  
30 until the department has conducted its investigation and  
31 released the results.

32     6. As part of the department's investigation, the  
33 claimant is not required to submit to a physical examination.  
34 Notwithstanding section 206.14, a commercial applicator or a  
35 representative of a commercial applicator is not entitled to

1 enter the property where the claim arose.

2 7. The department may provide the results of its  
3 investigation to the Iowa department of public health as a  
4 reportable poisoning pursuant to section 139A.21.

5 Sec. 4. Section 206.19, subsection 5, paragraph b, Code  
6 Supplement 2009, is amended to read as follows:

7 b. The amount of the civil penalty shall not exceed be more  
8 than five hundred dollars for each offense violation. However,  
9 a commercial applicator who applies pesticides by using an  
10 aircraft in a manner that causes personal injury is subject to  
11 enhanced civil penalties, as follows:

12 (1) For the first violation, not more than ten thousand  
13 dollars.

14 (2) For the second violation, not more than fifteen thousand  
15 dollars.

16 (3) For the third or subsequent violation, not more than  
17 twenty thousand dollars.

18 Sec. 5. Section 206.22, Code 2009, is amended by adding the  
19 following new subsection:

20 NEW SUBSECTION. 2A. A commercial applicator who  
21 negligently applies pesticides by using an aircraft in a manner  
22 that causes personal injury is guilty of a serious misdemeanor  
23 for the first offense and an aggravated misdemeanor for each  
24 subsequent offense.

25 Sec. 6. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
26 immediate importance, takes effect upon enactment.

27 EXPLANATION

28 GENERAL. This bill amends the Pesticide Act of Iowa codified  
29 in Code chapter 206, by providing for personal injury caused  
30 by a commercial applicator who applies pesticides using an  
31 aircraft. The term "pesticide" is broadly defined to include  
32 any substance intended for preventing, destroying, repelling,  
33 or mitigating insects, rodents, nematodes, fungi, weeds, and  
34 other forms of plant or animal life (Code section 206.2).

35 REPORTING. The bill requires that persons claiming an

1 injury caused by a commercial applicator's aerial application  
2 of pesticides may file a statement with the department. The  
3 department may model the statement's form and filing procedures  
4 after a similar statement used for reporting damages to  
5 property and especially crops caused by pesticide application  
6 (Code section 206.14). The bill requires the department to  
7 make such statements available on the internet. The statement  
8 may be used by the department to conduct an investigation and  
9 an enforcement action.

10 CIVIL PENALTIES. Generally, a person who violates a  
11 provision of Code chapter 206 is subject to a civil penalty of  
12 not more than \$500 (Code section 206.19). This bill creates  
13 enhanced civil penalties for personal injury caused by a  
14 commercial applicator's aerial application. The civil penalty  
15 is not more than \$10,000 for the first violation, \$15,000 for  
16 the second violation, and \$20,000 for the third or subsequent  
17 violation. The imposition of penalties is subject to review  
18 and recommendation by the commercial pesticide applicator peer  
19 review panel (Code section 206.23A).

20 LICENSE REVOCATION. The department must revoke the license  
21 of a commercial applicator who on more than two occasions  
22 applies pesticides using an aircraft in a manner that causes  
23 personal injury.

24 CRIMINAL PENALTIES. The bill provides that a commercial  
25 applicator who negligently applies pesticides by using an  
26 aircraft in a manner that causes personal injury is guilty of  
27 a serious misdemeanor for the first offense and an aggravated  
28 misdemeanor for each subsequent offense (Code section 206.22).  
29 A serious misdemeanor is punishable by confinement for no more  
30 than one year and a fine of at least \$315 but not more than  
31 \$1,875. An aggravated misdemeanor is punishable by confinement  
32 for no more than two years and a fine of at least \$625 but not  
33 more than \$6,250.

34 EFFECTIVE DATE. The bill takes effect upon enactment.